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SOAH DOCKET NO. 473-21-0538  
PUC DOCKET NO. 51415



APPLICATION OF SOUTHWESTERN § BEFORE THE STATE OFFICE  
ELECTRIC POWER COMPANY FOR § OF  
AUTHORITY TO CHANGE RATES § ADMINISTRATIVE HEARINGS

**COMMISSION STAFF'S LIST OF ISSUES**

**COMES NOW** the Staff (Staff) of the Public Utility Commission of Texas (Commission), representing the public interest and files this Staff's List of Issues. In support thereof, Staff shows the following:

**I. BACKGROUND**

On October 13, 2020, Southwestern Electric Power Company (SWEPCO) filed its application for approval to change base rates with the Commission.

On October 30, 2020, the Commission issued an Order of Referral, referring this docket to the State Office of Administrative Hearings (SOAH) and establishing a deadline of November 12, 2020 for the parties to provide a list of issues to address in this docket. Therefore, this pleading is timely filed.

**II. LIST OF ISSUES**

1. Did SWEPCO comply with the form and instructions for the Commission's rate-filing package?
2. Is SWEPCO's application administratively complete?
3. Did SWEPCO provide notice that was adequate and consistent with the requirements of PURA §§ 36.102 and 36.103?
4. What revenue requirement will give SWEPCO a reasonable opportunity to earn a reasonable return on its invested capital used and useful in providing service to the public in excess of its reasonable and necessary operating expenses?
5. What is SWEPCO's reasonable and necessary cost of providing service calculated in accordance with PURA and Commission rules?

## **INVESTED CAPITAL – RATE BASE AND RETURN**

6. What is the appropriate debt-to-equity capital structure for SWEPCO?
7. What is the appropriate overall rate of return, return on equity, and cost of debt for SWEPCO? When answering this issue please address how the factors specified in PURA § 36.052 and 16 TAC § 25.231(c)(1) should affect SWEPCO's rate of return.
8. Are any protections, such as financial protections, appropriate to protect the utility's financial integrity and ability to provide reliable service at just and reasonable rates?
9. What are the reasonable and necessary components of SWEPCO's rate base?
10. What is the original cost of SWEPCO's property used and useful in providing service to the public at the time the property was dedicated to public use?
  - a. What is the appropriate rate treatment for Dolet Hills Power Station (Dolet Hills)? Is SWEPCO's proposed rate treatment for the early retirement of the Dolet Hills Power Station in the public interest and consistent with PURA and Commission rules?
  - b. May a retired generating unit be included in a utility's revenue requirement consistent with PURA §§ 36.051 and 36.053(a)?
  - c. Has the Commission ever allowed a retired plant to be included in rate base? If so, under what circumstances?
11. Does SWEPCO's requested invested capital or revenue requirement include any amounts no longer used and useful in the provision of electric service?
12. What is the amount, if any, of accumulated depreciation on that property?
  - a. What is the proper adjustment, if any, to accumulated depreciation to reflect the retirement of Dolet Hills?
13. What adjustments, if any, are necessary to SWEPCO's depreciation expense, including any adjustments to rate, service lives, and salvage value, to properly reflect the retirement of Dolet Hills?

14. What is SWEPCO's transmission cost of service determined in accordance with PURA and Commission rules?
15. What amount, if any, of SWEPCO's invested capital has not previously been subject to a prudence review by the Commission? If there are any such amounts, what are the amounts; for what facilities, property, or equipment was the investment made; and were the amounts prudently incurred? What amount, if any, of allowance for funds used during construction (AFUDC) is being transferred to invested capital in this proceeding? If AFUDC is being transferred, for what facilities and at what rate was the AFUDC accrued?
16. Is SWEPCO's proposal to offset the unrecovered balance of Dolet Hills with the regulatory liability related to excess accumulated deferred income taxes in the public interest and consistent with PURA and the Commission's rules?
17. Is SWEPCO's decision to retire Dolet Hills no later than December 31, 2021 prudent?
18. Did any of SWEPCO's invested capital arise from payments made to an affiliate? If so, for each item or class of items, does the payment conform to the requirements in PURA § 36.058?
19. Is SWEPCO seeking the inclusion of construction work in progress? If so:
  - a. what is the amount sought and for what facilities, and
  - b. has SWEPCO proven that the inclusion is necessary to the financial integrity of the electric utility, and that major projects under construction have been efficiently and prudently planned and managed; or
  - c. for transmission investment required by the Commission under PURA § 39.203(e), do conditions warrant the inclusion of construction work in progress for such transmission investment?
20. What is the reasonable and necessary cash working capital allowance for SWEPCO, calculated in accordance with Commission rules?
  - a. Does SWEPCO's lead-lag study for its proposed allowance for cash working capital comply with Commission rules?

- b. If not, should cash working capital be set at a negative one-eighth of operations and maintenance expenses?
- 21. Does SWEPCO have a self-insurance plan approved by the Commission? What is the approved target amount for the reserve account, and is it appropriate to change that amount? In addition, what is the amount, if any, of any shortage or surplus for the reserve account for the approved plan, and what actions, if any, should be taken to address any balance in the reserve account?
- 22. What is the reasonable and necessary amount, if any, of SWEPCO's accumulated reserve for deferred federal income taxes, unamortized investment tax credits, contingency reserves, property insurance reserves, contributions in aid of construction, customer deposits, and other sources of cost-free capital? What other items, if any, should be deducted from SWEPCO's rate base?
- 23. What regulatory assets, if any, are appropriately included in SWEPCO's rate base? If included, what is the appropriate treatment of such regulatory assets?
- 24. What regulatory liabilities, if any, are appropriately included in SWEPCO's rate base? If included, what is the appropriate treatment of such regulatory liabilities?
- 25. What post-test-year adjustments for known and measurable rate-base changes to historical test-year data, if any, should be made? Do any such adjustments comply with the requirements of 16 TAC § 25.231(c)(2)(F)?
  - a. Does each addition equal at least 10% of SWEPCO's requested rate base, exclusive of post-test-year adjustments and construction work in progress?
  - b. Will each plant addition be in service before the rate year begins?
  - c. Have the attendant impacts on all aspects of SWEPCO's operations (including, but not limited to, revenue, expenses, and invested capital) been identified, quantified, and matched?
  - d. For any post-test-year adjustments, what future filings, if any, should SWEPCO be required to make to verify that the plant was placed in service before the rate year begins?

## **EXPENSES**

26. What are SWEPCO's reasonable and necessary operations and maintenance expenses?
27. What are SWEPCO's reasonable and necessary administrative and general expenses?
28. What are SWEPCO's reasonable and necessary rate case expenses in accordance with PURA § 36.061(b)(2) and 16 TAC § 25.245? Does this amount include any anticipated expenses to appeal this docket or a prior rate case proceeding?
29. What are the intervening cities' reasonable rate case expenses in accordance with PURA § 33.023(b) and 16 TAC § 25.245? Does this amount include any anticipated expenses to appeal this docket or a prior rate case proceeding?
30. What is SWEPCO's reasonable and necessary depreciation expense? For each class of property, what are the proper and adequate rates and methods for depreciation, including service lives and salvage value?
31. What is the reasonable and necessary amount for assessments and taxes, other than federal income taxes, for SWEPCO?
32. What is the reasonable and necessary amount for municipal franchise fees? What is the appropriate amount to be included in base rates?
33. What is the reasonable and necessary amount of SWEPCO's federal income tax expense?
34. Is SWEPCO's proposed treatment of federal income taxes consistent with PURA, the Commission's substantive rules, and the Commission's amended order in Docket No. 47945?<sup>1</sup>
  - a. Has SWEPCO appropriately addressed the impact of the Tax Cuts and Jobs Act of 2017 on its rates?
  - b. Should SWEPCO return to customers any excess revenue collected due to the reduction in the corporate federal income tax rate from 35% to 21% from January 25, 2018 through the date final rates are set in this proceeding? If yes,

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<sup>1</sup> *Proceeding to Investigate and Address the Effects of Tax Cuts and Jobs Act of 2017 on the Rates of Texas Investor-Owned Utility Companies*, Amended Order Related to Changes in Federal Income Tax Rates, Project No. 47945 (Feb. 15, 2018).

what is the applicable interest rate that should apply to the over-collection of excess revenues?

35. Will SWEPCO realize any tax savings derived from liberalized depreciation and amortization, investment tax credits, or similar methods? If so, are they apportioned equitably between consumers and the utility, and are the interests of present and future customers equitably balanced as required by PURA § 36.059?
36. What is the reasonable and necessary amount for SWEPCO's advertising expense, contributions, and donations?
37. What is SWEPCO's reasonable and necessary amount for nuclear decommissioning expenses, if any, calculated in accordance with Commission rules?
38. Is SWEPCO seeking approval of a self-insurance plan or changes to an existing plan? If so,
  - a. Is the coverage provided by the plan in the public interest?
  - b. Does the plan provide a lower-cost alternative to purchasing commercial insurance? Will ratepayers receive the benefits of the savings?
  - c. What is the reasonable and necessary target amount for SWEPCO's self-insurance reserve account?
  - d. What is the reasonable and necessary amount of annual accruals to properly fund the self-insurance reserve account?
39. What are SWEPCO's reasonable and necessary expenses for pension and other post-retirement benefits, if any, calculated in accordance with PURA § 36.065 and 16 TAC § 25.231(b)(1)(H)? What is the reasonable baseline level of pension and other post-employment benefits for purposes of the expense tracker under PURA § 36.065?
  - a. Has SWEPCO established under PURA § 36.065(b) any reserve accounts for pension and other post-employment benefits?
  - b. If so, has SWEPCO recorded the proper amounts in the reserve account?
  - c. Are the amounts recorded in the reserve account reasonable expenses in accordance with PURA § 36.065(d)(1)?

- d. Does the reserve account have a surplus or shortage? PURA § 36.065(c) and (d)(2).
  - e. If so, how should SWEPCO's rate base be modified to amortize, over a reasonable time, any surplus or shortage in the reserve account? PURA § 36.065(d)(3).
40. Has SWEPCO made any payments for expenses to affiliates? If so, for each item or class of items:
- a. Are costs appropriately assigned to SWEPCO and its affiliates?
  - b. Has SWEPCO met the standard of recovery of affiliate costs under PURA § 36.058 and Commission rules?
41. Does SWEPCO have any competitive affiliates, as defined by 16 TAC § 25.272(c)(2)? If so, has SWEPCO conducted any transactions with its competitive affiliates? If so, what are these transactions, have all transactions with any competitive affiliates been conducted at arm's length, and has SWEPCO met all of the requirements of 16 TAC § 25.272 regarding such transactions? If not, what amount of expenses should be disallowed?
42. Have any revenues received for expenses attributable to transmission service to export power from or import power to ERCOT been properly reflected in SWEPCO's requested rates?
43. Are any of SWEPCO's expenditures unreasonable, unnecessary, or not in the public interest, including, but not limited to, executive salaries, advertising expenses, legal expenses, penalties and interest on overdue taxes, criminal penalties or fines, and civil penalties or fines?
44. What post-test-year adjustments for known and measurable changes to historical test-year-data for expenses, if any, should be made? For any such adjustments, have all the attendant impacts on all aspects of SWEPCO's operations (including, but not limited to, revenue, expenses, and invested capital) been identified with reasonable certainty, quantified, and matched?
45. What are the appropriate amounts, if any, for transmission expenses and revenues under FERC-approved tariffs to be recovered?



## **DEFERRED COSTS**

46. Is SWEPCO seeking to include in rates any costs previously deferred by an order of the Commission? If so, in what docket did the Commission approve deferral of the costs? Is inclusion of such deferred costs in rates necessary to carry out a provision of PURA? What is the appropriate standard by which to make this determination, and is the proposed assignment and allocation of that recovery appropriate?
47. Is SWEPCO seeking to defer any costs, including any rate-case expenses, in this proceeding for recovery in a future proceeding? If so, what is the amount of such costs, and why were those costs incurred (or why will they be incurred)? Is deferral of those costs necessary to carry out a provision of PURA? If not, why is it necessary to defer these costs? What are the appropriate standards to make these determinations?

## **RATE DESIGN AND TARIFFS**

48. What are SWEPCO's just and reasonable rates, calculated in accordance with PURA and Commission rules? Do the rates comply with the requirements of PURA § 36.003?
49. What are the appropriate rate classes for which rates should be determined? Is SWEPCO proposing any new rate classes? If so, why are these new rate classes needed?
50. What are the appropriate billing and usage data for SWEPCO's test year? What known and measurable changes, if any, should be used to adjust the test-year data? What changes, if any, are necessary to reflect abnormal weather conditions or other aberrant conditions?
51. What is the just and reasonable amount of expenses and invested capital properly allocable to SWEPCO's end-use customers in Texas, *i.e.*, what is the appropriate state jurisdictional allocation?
52. What are the appropriate allocations of SWEPCO's revenue requirement to jurisdictions, functions, and rate classes?
- a. Does SWEPCO have any customer-specific contracts for the provision of transmission or distribution service? If so, identify each customer, and state whether the contract has been presented to the Commission for approval, and if

so, in what docket. In addition, has SWEPCO appropriately allocated revenues and related costs associated with such contracts? Do all allocation factors properly reflect the types of costs allocated?

- b. What are the appropriate allocations of SWEPCO's transmission investment, expenses, and revenues, including transmission expenses and revenues under FERC-approved tariffs, among jurisdictions?
- c. Does SWEPCO have any FERC-approved tariffs? If so, identify each tariff and the FERC docket in which the tariff was approved. What are the appropriate allocations of SWEPCO's transmission investment, expenses, and revenues, including transmission expenses and revenues under those tariffs? Has SWEPCO made appropriate allocations for import to and exports from ERCOT?

53. What are the appropriate rates for exports of power from ERCOT, calculated in accordance with 16 TAC § 25.192(e) and ERCOT protocols?

54. Does SWEPCO provide wholesale transmission service at distribution voltage to any customers? If so, has SWEPCO properly allocated costs to, and designed rates for, those customers as required under PURA § 35.004(c)?

55. Are all rate classes at unity? If not, what is the magnitude of the deviation(s), and what, if anything, should be done to address the lack of unity?

56. What tariff revisions are appropriate as a result of this proceeding?

57. Has SWEPCO proposed any rate riders? If so, should any of the proposed riders be adopted? If so, what are the appropriate costs to be recovered through the riders, and what are the appropriate terms and conditions of the riders?

58. Does SWEPCO have any existing rate riders that should be modified or terminated? What regulatory assets or other items are currently being recovered through rate riders?

#### **BASELINES FOR COST-RECOVERY FACTORS**

59. Should baseline amounts be determined in this proceeding for future SWEPCO interim transmission cost of service, transmission-cost-recovery-factor, or distribution-cost-recovery-factor filings? If so, what are the investment and expense components and amounts?

## **HURRICANE LAURA RESTORATION COSTS**

60. What amount of SWEPCO's claimed restoration costs for Hurricane Laura are recoverable?
- a. What portion of SWEPCO's claimed hurricane restoration costs meet the definition of "system restoration costs" set forth in PURA § 36.402?
  - b. Should any of SWEPCO's claimed restoration costs be offset for payment to SWEPCO of insurance proceeds, government grants, or any other source of funding that compensates it for hurricane restoration costs?
    - i. What insurance proceeds, governmental grants, or any other source of funding that compensates SWEPCO for its hurricane restoration costs has SWEPCO applied for, received, or anticipated receiving?
    - ii. Have all applicable insurance proceeds, governmental grants, or any other source of funding that compensates SWEPCO for its hurricane restoration costs been applied fairly so as not to inappropriately burden Texas ratepayers with any hurricane restoration costs?
61. What is the appropriate rate of interest and calculation period for any carrying costs on SWEPCO's claimed restoration costs?
62. Are the hurricane restoration costs functionalized and allocated to customers in the same manner as the corresponding facilities and related expenses are functionalized and allocated in SWEPCO's current base rates in accordance with PURA § 36.403(g)?
63. Is SWEPCO's proposed method of recovery of Laura Harvey system restoration costs appropriate?

## **ADDITIONAL ISSUES**

64. Has SWEPCO requested any exceptions to any requirements in any Commission rules? If so, what are those rule requirements, and has SWEPCO demonstrated good cause for the exception? Should the Commission grant the exception?

65. Should the Commission approve SWEPCO's requests for waivers of requirements, if any, in the Commission's rate filing package?

66. Has SWEPCO complied with the Commission's final order in Docket No. 46449?<sup>2</sup>

This proposed list of issues is not intended to be exhaustive; Staff reserves the right to raise and address other issues in the proceeding.

### **III. ISSUES NOT TO BE ADDRESSED**

**1. SWEPCO's request for a declaratory order related to battery storage is not an issue to be addressed in this docket.**

The state of the law is that "the current regulatory structure is inadequate to address energy-storage devices" for transmission and distribution utilities.<sup>3</sup> The use of battery storage is currently being discussed by the Legislature. To the extent that the inclusion of the issue within this litigated case would limit the Commission's ability to participate or comment on such legislation, Staff recommends that the issue be listed as an issue not to be addressed.

### **IV. CONCLUSION**

Staff requests that its list of issues be among the issues that will be considered by the Commission in this proceeding.

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<sup>2</sup> *Application of Southwestern Electric Power Company for Authority to Change Rates*, Docket No. 46449, Order on Rehearing (Mar. 19, 2018).

<sup>3</sup> *Application of AEP Texas North Company for Regulatory Approvals Related to the Installation of Utility Scale Battery Facilities*, Docket No. 46368, Final Order at 3-4 (Feb. 15, 2018).

Dated: November 12, 2020

**PUBLIC UTILITY COMMISSION OF  
TEXAS LEGAL DIVISION**

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**CERTIFICATE OF SERVICE**

I hereby certify that, unless otherwise ordered by the presiding officer, a true and correct copy of the foregoing document was transmitted by electronic mail to the parties of record on November 12, 2020 in accordance with the Order Suspending Rules issued in Docket No. 50664.

/s/ Rashmin J. Asher  
Rashmin J. Asher